AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2125 of 2002

Petitioners

1. Sant Kumar, aged about 35 years, S/o Sevak Ram Yadav, working as Peon in the Boys High School, Janjgir, District Janjgir-Champa (Chhattisgarh)
2. Smt. Triveni Bai, W/o Ramadhar Yadav, working as Waterman in Girls High School, Sakti, District- Janjgir-Champa (Chhattisgarh)
3. Ganeshwar Prasad, working as Watchman in High School, Amaldiha, District Janjgir Champa (Chhattisgarh)
4. Balaram, S/o Mohit Ram Bhadwaj, working as Cook in Boys High School, Kharoda, District- Janjgir Champa (Chhattisgarh)
5. Chait Ram, S/o Vishwanath Bhardwaj, working as Waterman in Boys High School Kharod, District- Janjgir-Champa (Chhattisgarh).
6. Kisan, S/o BodhiRam, working as Waterman in Girls High School, Kharod, District Janjgir Champa (Chhattisgarh)
7. Gopi Chand, S/o Bhola Ram, working as Waterman in Girls High School, Kharod, District- Janjgir Champa (Chhaggistarh.
8. Bhagwat Prasad, S/o Darash Ram, working as Waterman in Girls High School, Kharod, District- Janjgir Champa (Chhaggistarh.
9. Sukhlal, S/o Konda Ram, working as Waterman in Boys High School, Amaldiha, District- Janjgir Champa (Chhaggistarh.
10. Ramgopal, S/o Anuj Ram, working as Waterman in Boys High School, Jharna, District- Janjgir Champa (Chhaggistarh.
11. Pankaj Kumar, working as Waterman in Boys High School, Janjgir District-Janjgir Champa (Chhaggistarh.
12. Manohar Lal, S/o Ramcharan, working as Cook in Boys High School, Navagarh, District- Janjgir Champa (Chhaggistarh.
13. Pook Ram Sidar, S/o Kirit Ram working as Cook in Boys High School, Faguram, District- Janjgir Champa (Chhaggistarh.

(102)

14. Sounkhi Lal, S/o Bhojwa Prasad, working as Cook in Boys High School, Akaltara, District- Janjgir Champa (Chhaggistarh.
15. Parmeshwar Singh, S/o Satrughan Prasad, working as Watermanin Boys High School, Khaira, District- Janjgir Champa (Chhaggistarh.
16. Ram Awtar, S/o Son Sai, working as Watchman in Boys High School, Amladiha, District- Janjgir Champa (Chhaggistarh.
17. Smt. Shyam Bai, working as Cook, in Boys High School, Sakti, District- Janjgir Champa (Chhattisgarh).
18. Satya Narayan, S/o Giri Lal, working as Waterman in Boys High School, Khaira, District- Janjgir Champa (Chhaggistarh.
19. Byas Narayan, S/o Mahatma Ram, working as Peon in Boys High School Office, Janjgir, District- Janjgir Champa (Chhaggistarh.
20. Gautam Ram, working as Waterman in Boys High School Arbhan, District- Janjgir Champa (Chhaggistarh.
21. Terash Ram, working as Waterman in Girls High School, Sakti District- Janjgir Champa (Chhaggistarh.
22. Mukund Ram, S/o Hari Ram, working as Waterman in Boys High School, Khisora, District- Janjgir Champa (Chhaggistarh.
23. Smt. Sukhmat Bai, working as Cook in Girls High School, Pamgarh, District- Janjgir Champa (Chhaggistarh.
24. Kaushal Prasad, S/o Nanku Ram, working as Driver in Boys High School Office, Janjgir, District- Janjgir Champa (Chhaggistarh.
25. Kanshi Ram, working as Waterman in Boys High School, Akaltara, District- Janjgir Champa (Chhaggistarh.
26. Vishnu Prasad, working as Waterman in Boys High School, Janjgir, District- Janjgir Champa (Chhaggistarh.
27. Rajkumar, working as Cook in Boys High School, Khisora, District- Janjgir Champa (Chhaggistarh.
28. Smt. Subhash Bai, working as Waterman in Girls High School Pantora, District- Janjgir Champa (Chhaggistarh.
29. Lila Ram, S/o Bisahu Ram, working as Cook in Boys High School, Akaltara, District- Janjgir Champa (Chhaggistarh.

(10)

-3-

30. Dooj Ram, S/o Mahettar, working as Waterman in Boys High School, Navagarh, District- Janjgir Champa (Chhaggistarh.

Versus

Respondents

1. State of Chhattisgarh, through its Secretary, Department of Tribal Welfare, D.K.S. Bldg. Mantralaya, Raipur (Chhattisgarh).
2. Commissioner, Tribal Development, Raipur (Chhattisgarh).
3. Collector (Tribal Welfare), District- Janjgir Champa (Chhaggistarh.
4. District Organiser, Tribal Welfare, District- Janjgir Champa (Chhaggistarh.

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri B. D. Guru, Advocate for the petitioners.

Shri Sumesh Bajaj, Deputy Govt. Advocate for the respondents.

ORAL ORDER

(18th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner were appointed on various posts and were granted regular pay scales as under:-

Name of the petitioner	Post	Date of Appointment	Date of Regular Pay Scale
Sant Kumar	Peon	25.8.1993	25.8.1996
Smt. Triveni Bai	Waterman	7.10.1989	1.1.1993
Ganeshwar Prasad	Watchman	1.2.1992	1.2.1994
Balaram	Cook	16.10.1993	16.10.1996
Chait Ram	Waterman	1.4.1996	1.4.1999
Kisan	Waterman	8.6.1993	8.6.1996
Gopi Chand	Waterman	2.4.1996	2.4.1999
Bhagwat Prasad	Waterman	21.9.1990	16.8.1994
Sukhlal	Waterman	5.3.1994	5.3.1997
Ramgopal	Waterman	21.9.1990	16.8.1994
Pankaj Kumar	Waterman	12.8.1994	12.8.1997
Manohar Lal	Cook	16.8.1989	16.8.1994
Pookram Sidar	Cook	1.4.1990	1.4.1993
Sounkhi Lal	Cook	20.1.1991	16.8.1994

Parmeshwar Singh	Waterman	5.8.1994	5.8.1997
Ram Awtar	Waterman	12.12.1995	12.12.1998
Smt. Shyam Bai	Cook	7.10.1989	1.1.1993
Satya Narayan	Waterman	13.1.1994	13.1.1997
Byas Narayan	Peon	22.12.1992	16.8.1994
Goutam Ram	Waterman	22.6.1990	1.4.1993
Terash Ram	Waterman	17.2.1989	16.8.1994
Mukund Ram	Waterman	12.12.1990	16.8.1994
Smt. Sukhmat Bai	Cook	26.2.1991	16.8.1994
Kaushal Prasad	Driver	25.9.1991	1.1.1996
Kanshi Ram	Waterman	1.4.1990	1.4.1993
Vishnu Prasad	Waterman	1.4.1990	1.4.1993
Rajkumar	Cook	12.12.1990	1.2.1994
Smt. Subhash Bai	Waterman	2.2.1995	2.2.1998
Lila Ram	Cook	16.10.1989	16.8.1994
Dooj Ram	Waterman	11.10.1993	11.10.1996

2. The regular pay scales granted to the petitioners were withdrawn vide order dated 3.8.2002 (Annexure P/1), admittedly, without show cause notice to the petitioners.

3. Learned counsel appearing for the respondents submits that an internal enquiry has been held whereby it was found that the regular pay scale granted earlier was not proper. Be that as it may, regular pay scales were granted to the petitioners, not on the basis of any misrepresentation made by the petitioners, but on the basis of the consideration of their cases by the respondents on various dates running from January, 1993 to 1.4.1999. The said order dated 3.8.2002 could not have been cancelled after a long period, without affording an opportunity of hearing to them. The petitioners were not even given show cause notice to put their cases before the authorities.

4. The Supreme Court in **Bhagwan Shukla Vs. Union of India & others** { (1994) 6 Supreme Court Cases 154 }, while considering the reduction of pay of the employee from Rs. 190/- per month to Rs. 181/- per month has held as under:-

"The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter."

5. In the facts of the present case, the petitioners have been availing regular pay scales from various dates till the impugned order dated 3.8.2002 (Annexure P/1) was passed. The impugned order could not have been passed without issuing proper show cause notice or without giving the petitioners a hearing in the matter. Learned counsel for the respondents submits that the enquiry has already been initiated and pending enquiry the impugned orders have been passed. The impugned orders visit with civil consequences. Since the impugned orders were passed before conclusion of enquiry and without affording the petitioners a hearing, the impugned orders are bad and invalid.

6. For the reasons stated above and in view of the decision of the Supreme Court in case of **Bhagwan Shukla** (Supra), the petition is allowed and the impugned orders are quashed. The petitioners are entitled to regular pay scales accordingly from the date, the same have been withdrawn by the impugned orders. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge